

REMARKS

I. Claim Amendments

The claims have been amended to more clearly and particularly claim what Applicant regards as the invention. Specifically, claims 1-3 have been canceled and new claims 4-20 are submitted for consideration. Claims 4, 15 and 20 are the independent claims.

Support for the new claims 4-20 is provided below. All page and figure references are to the originally-filed specification and originally-filed drawings. For the convenience of the Examiner, Applicant has enclosed a copy of the originally-filed specification wherein page numbers have been provided.

Claims 4, 5 and 20: support for the main housing is found on page 5 (page headed SUMMARY OF INVENTION), lines 1-6 and in FIGS. 2-4; support for the side access opening is found on page 5, line 7-9; support for the flap is found on page 9 (the page following the page headed PREFERRED EMBODIMENT), lines 9-15 and in "Front" FIGS. 1 and 3; and support for the lid is found on page 5, lines 17-18.

Claim 6: support is found in "Front" FIG. 3 where it is shown that the opening is fully embodied within the outer boundaries of the side panel in which it is disposed.

Claim 7: support is found on page 9, lines 4-9 and in "Front" FIGS. 1-3. The expression "side access opening is adjacent to the bottom panel", as recited in claim 7, means that the entire side access opening is disposed near the bottom panel, as shown in "Front" FIGS. 1-3.

Claim 8: support is found on page 9, lines 8 and 9.

Claim 9: support is found on page 8, lines 15-23 and in “Front” FIG. 2.

Claim 10: support for claim 5 is found on page 5, lines 20-27.

Claim 11: support is found on page 5, lines 7-9.

Claim 12: support is found on page 10, lines 3-6.

Claim 13: support is found on page 10, lines 3-6 and in “Front” FIGS. 2-3.

Claim 14: support is found on page 10, line 3.

Claim 15: support is found on page 8, lines 9 and 10.

Claim 16: support for claim 15 is the same as for claim 5 and claim 8. Applicant further notes that it is well known that sanitary napkins are produced as elongate substantially rectangular articles and that they are typically individually packaged in a square, “tri-fold” configuration. Hence, a rectangular item, such as a non-folded or “tri-folded” sanitary napkin, inherently has a short axis and two longer axes.

Claim 17: support is found on page 6, lines 5-8.

Claim 18: support is found on page 10, lines 3-6.

Claim 19: support is found on page 6, lines 2-4 and on page 10, lines 6-9.

Applicant submits that no new matter has been introduced by the any of the amendments to the claims.

II. Claim rejections under 35 U.S.C. §112

Claim 1 is rejected under 35 U.S.C §112, first paragraph, for allegedly failing to provide enablement for each and every equivalent means for storing and retrieving feminine sanitary napkins. More specifically, the Examiner asserts that claim 1 is a “single means claim” which, therefore, is subject to an undue breadth rejection under 35 U.S.C §112, first paragraph. In response, claim 1 has been canceled. None of the new claims recite the structure of the presently claimed invention in terms of a “single means”. In view of the amendment, Applicant submits that the present rejection under 35 U.S.C. §112, first paragraph, has been rendered moot.

Claims 1-3 are rejected under 35 U.S.C §112, second paragraph for allegedly being indefinite for failing to point out and distinctly claim the invention. Claims 1-3 have been canceled and new claims 4-20 have been added. New claims 4-20 satisfy the requirement of 35 U.S.C §112, second paragraph, since they do not embody the language which served as the bases of the present rejection . Specifically, the expressions “portable/hangable”, “and/or”, and “or the like” no longer appear in any of the claims. Therefore, Applicant submits that the present rejection has been rendered moot and is not applicable to the pending claims.

III. Claim rejections under 35 U.S.C. §102(b)

Claim 1 is rejected under 35 U.S.C §102(b) as allegedly being anticipated by U.S. Patent 2,478,412 to McMahan. (“McMahan”). Specifically, the Examiner alleges that “box A” of Figure 1 of McMahan shows a portable/hangable utility means for the storage and retrieval of feminine sanitary napkins which anticipates claim 1. As discussed above, single means claim 1

has been canceled. Therefore, the present reject has been rendered moot. Moreover, Applicant submits that McMahan fails to show each and every feature of the claimed invention as defined by new claims 4-20.

McMahan discloses a box for the storage of sanitary napkins. The box is divided vertically into two compartments: one for the storage of unused napkins and one for the storage of envelopes used for depositing used napkins. The box of McMahan is composed of a "top" wall (11) and a hinged "front" wall (13). (See McMahan, col. 2, lines 41-42.). The front wall forms the cover and provides for the only access to the contents stored in box.

In contrast to McMahan, the storage container of new claims 4-20 is defined, *inter alia*, by a side access opening defined by one of the side panels of the container. This side access opening is sized and configured to allow passage of at least one sanitary napkin at a time. Moreover, the claimed invention includes a flap having a first end secured to the main housing of the containing and having a second end that is releasably securable to the main housing. The flap is positioned to cover the side access opening when the second flap is secured to the main housing.

Applicant submits that McMahan does not disclose or suggest a side access opening or a flap for covering such opening as presently claimed. Therefore, McMahan cannot be an anticipatory reference.

IV. Claim rejections under 35 U.S.C. §103(a)

Claims 1-3 are rejected under 35 U.S.C. §103(a) for allegedly being obvious over US 2,335,898 to Arnold ("Arnold") in view of US 1,648,565 to Primley ("Primley").

The Examiner asserts that Arnold discloses the claimed invention except for the strap, handles and outside pockets, which are, allegedly, conventional to carriers and disclosed by Primley. Specifically, the Examiner has asserted that the case of Arnold comprises a rectangular main housing having a top access opening "provided by" flaps (14) and (15) and a side access opening "provided by" so-called flap 16.

Applicant submits that the side access opening of the claimed invention is structurally distinguishable from the hingeable front (16) of Arnold. As defined by the claims and illustrated in the figures, the side access opening of the claimed invention is "defined" by the one of the side panels. The expression "defined", as used in the claims, must be given its ordinary meaning as defined, for example, by The American Heritage Dictionary, 2nd College Ed.: to delineate the outline or form the shape of. Thus, new claims 4-20 expressly recite that the side access opening is defined, i.e., formed or outlined by one of the side panels. This feature is shown by the drawings as originally filed.

In contrast, Figure 1 of Arnold illustrates a side opening that may be "provided by" the hingeable front panel 16. However, this alleged side opening is not outlined or formed by front panel 16 within the meaning of the expression "defined by", as recited by new claims 4-20, when given its ordinary meaning. Moreover, the claimed invention is structurally distinguished by a flap having a first end secured to the main housing of the containing and having a second end that is releasably securable to the main housing. The flap is positioned to cover the side access opening when the second flap is secured to the main housing. In contrast, the hingeable front panel 16 of Arnold is not releasably securable to the main housing. Rather, front panel 16 is releasably securable to the lid, or front flap 15.

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Finally, as defined by dependent claim 5 and independent claim 20, the main housing of the claimed storage container is formed by the panels joined at their edges. This feature is clearly not disclosed or suggested by Arnold. The intended function of the toilet case of Arnold requires that front panel 16 be hingeably connected to the bottom 12. Therefore, front panel 16 is not and cannot be affixed or joined to the other panels without destroying the intended function of Arnold's toilet case.

The secondary reference to Primley does not overcome the foregoing structural differences between the claimed invention and the primary reference to Arnold. Accordingly, Applicant respectfully submits that Arnold and Primley, whether taken alone or together, do not suggest the invention as defined by new claims 4-20.

CONCLUSION

Upon entry of this Amendment and Response, claims 4-20 are pending and are in condition for examination and allowance, which action is earnestly solicited. If any fee is required, the Assistant Commissioner is hereby authorized to charge such fee to Deposit Account No. 23-1703.

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Respectfully submitted,



Paul Diamond
Reg. No. 48,532
Agent for Applicant

Customer No. 007470
Agent's Direct Line (212) 819-8425

Enclosure

page-numbered reference copy of originally-filed specification

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